IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

Crl.MC.No. 3930 of 2006()

CC.503/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT, TALIPARAMBA

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PETITIONER: ACCUSED 1 & 2:

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1. ZAINUDDIN, AGED 40 YEARS,
   S/O. LATE ANDUNHI HAJI, BADIRA HOUSE,
   POST VIDYANAGAR, KASARAGOD TALUK.

2. K.A. MOHAMMED, AGED 49 YEARS,
   S/O. ABDUL RAHIMAN, CHALA ROAD, VIDYANAGAR POST,
   KASARAGOD TALUK.

BY ADV. SRI.BECHU KURIAN THOMAS

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.PUZHAKKARA MUHAMMED.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3930 OF 2006

Dated this the 30th day of November, 2006

ORDER

The petitioners have come to this Court with a grievance that non-bailable warrants have been issued against them by the learned Magistrate without sufficient and satisfactory reasons and without complying with the procedure prescribed under the Cr.P.C. The petitioners complain that no summons were ever served on them; but non-bailable warrants have been issued to secure the presence of the petitioners. They face the allegations under Secs.457 and 380 of the IPC.

2. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioners' applications for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have

already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioners surrender before the learned Magistrate and seek bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge